IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 20773 of 2004

Between:

1 M/s Arora Sanitary Engineering Co., 5-3-340/ID, Hyderabad Co-operative Insurance Building, Rashtrapathi Road, Secunderabad, rep. by its Smt. Mansee Bedekar.
2 Amay Baderkar, s/o Uday Bedekar, r/o Barkatpura,Hyderabad.

..... PETITIONERS

AND

1 Life Insurance Corporation of India, South Central Zone, Jeevan Bhagya Building, Saifabad, Hyderabad.
2 Estate Officer, Life Insurance Corporation of India, South Central Zone, Jeevan Bhagya Building, Saifabad, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order or direction, more particularly one in the nature of Writ of Certiorari, calling for the records relating to Case No.2 of 2004 pending before the 2nd respondent and quash the same as void, ab-initio, illegal and without jurisdiction.

Counsel for the Petitioners:MR.M.VASANTH KUMAR ANJAN

Counsel for the Respondents: MR.E.S.KUMAR

The Court, at the stage of admission, made the following :

ORDER

Heard the learned counsel for the petitioners and learned Standing Counsel for the respondents. Both the counsel requested for disposal of the writ petition at the stage of admission.

Petitioners are the tenants of an area admeasuring 1588 sq.ft. in the ground floor of the building bearing No.5-3-340/1-D, belongs to the first respondent- Life Insurance Corporation of India. Initiation of the proceedings under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (for short 'the Act, 1971') on the complaint made by the first respondent herein is the subject matter of challenge in this writ petition. It is the case of the petitioners that the request of the first respondent to exempt the premises from the purview of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short 'the Act, 1960') was rejected by the Government of A.P. in its Memo No.1431/Accommodation.A1/80-4, dated 30.5.1983 and hence, the premises is governed by the provisions of the Act, 1960.

Learned counsel for the petitioners submits that when the premises is governed by the provisions of the Act, 1960, the initiation of the proceedings under the Act, 1971 in Case No.2 of 2004 does not arise. Learned counsel further submits that the petitioners filed their objections on 10.11.2004 against the initiation of the proceedings before the second respondent under the provisions of the Act, 1971 stating that the second respondent has no jurisdiction to proceed under the said Act.

On the other hand, the learned counsel for the respondents contends that since the leased premises is covered by both the enactments, the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is a latter act, which will prevail over the former Act i.e. A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960, as held by the Apex Court in **ASHOKA MARKETING LTD V PUNJAB NATIONAL BANK.**

Since the second respondent has already entertained the complaint made by the first respondent and issued necessary notices in Case No.2 of 2004, it is for the second respondent to decide the issue whether the proceedings can be initiated under the provisions of the Act, 1971 or not for due eviction of the petitioners and the parties are at liberty to substantiate their claims before the second respondent with necessary pleadings. The Second respondent shall consider the objections raised by the petitioners and shall proceed with the matter in accordance with law. Since, an appeal lies to the Chief Judge, City Civil Courts, Hyderabad under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, if any adverse orders are passed by the second respondent, the petitioners are at liberty to file an appeal before the said appellate authority, and the appellate authority will go into the correctness or otherwise of the orders so passed by the second respondent. In view of the same, I do not see any grounds to entertain the writ petition at this stage.

With the above observations and directions, the writ petition is disposed of. No costs.

A. GOPAL REDDY. J.

19th November, 2004

tsr.

To

1 Life Insurance Corporation of India, South Central Zone, Jeevan Bhagya Building, Saifabad, Hyderabad.
2 Estate Officer, Life Insurance Corporation of India, South Central Zone, Jeevan Bhagya Building, Saifabad, Hyderabad.

3 Two C.D. copies.